

FILED

OCT 19 2005

CHAMBERS  
COPY

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United States Attorney

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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA,

5-70695 (PVT)

13 Plaintiff,

[Proposed]

14 v.

ORDER CONTINUING CASE AND  
EXCLUDING TIME UNDER THE  
SPEEDY TRIAL ACT, 18 U.S.C. § 3161

15 ALBERTO MUNOZ,

16 Defendant.

17  
18 This matter came before the Court for a status conference on Thursday, October 13, 2005.  
19 Counsel for the government and the defendant were present.

20 At the hearing, the defendant was advised and stated that he understood that under Rule  
21 5.1(c) of the Federal Rules of Criminal Procedure he is entitled to a preliminary hearing within  
22 20 days of his initial appearance as an out-of-custody defendant unless an indictment is filed, and  
23 that pursuant to 18 U.S.C. § 3161(b) he is entitled to be indicted within 30 days of his arrest in  
24 this matter. After consultation with his attorney, the defendant stated that he wished to waive  
25 those rights and continue the date set for preliminary hearing or indictment until November 10,  
26 2005.  
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1 At the conclusion of the hearing, and at the request of defense counsel, without objection by  
2 the government, the Court ruled as follows:

3 IT IS HEREBY ORDERED that this case is continued to November 10, 2005 at 9:30 a.m.  
4 for a preliminary hearing or arraignment.

5 IT IS FURTHER ORDERED that the period of time from October 13, 2005 through and  
6 including November 10, 2005 shall be excluded from the period of time within which an  
7 indictment or information must be filed under the Speedy Trial Act, 18 U.S.C. § 3161(b),  
8 pursuant to Title 18, United States Code, Section 3161(h)(8)(A), considering the factors set forth  
9 in Section 3161(h)(8)(B). The Court finds that the ends of justice served by this continuance  
10 outweigh the best interests of the public and the defendant in a speedy trial for the following  
11 reasons:

12 Defense counsel has requested the additional time to review the supplemental discovery  
13 that was provided by the United States last week. The United States has no objection to the  
14 additional time requested. In addition, the parties require the additional time to discuss the  
15 proposed plea agreement in this case in an effort to resolve this case prior to indictment. The  
16 exclusion of time is therefore required for effective preparation of counsel.

17 IT IS FURTHER ORDERED that the period of time for a preliminary hearing is extended  
18 under Federal Rule of Criminal Procedure 5.1(d), until November 10, 2005 based on the  
19 defendant's consent and based on the parties' showing of good cause as set forth above.

20 For the foregoing reasons, the Court finds that the interests of justice in granting this  
21 continuance outweigh the defendant's and the public's interests in a speedy trial.

22 Dated this 19 day of October, 2005.

23  
24   
25 HOWARD R. LLOYD  
26 United States Magistrate Judge  
27  
28

Copies to be served on:

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